

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34839

NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY  
COMPANY–CONTROL AND CONSOLIDATION EXEMPTION–ALGERS, WINSLOW  
AND WESTERN RAILWAY COMPANY

Decided: April 3, 2006

On February 14, 2006, Norfolk Southern Railway Company (NSR) filed a petition for exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 11323, et seq., to acquire control of Algiers, Winslow and Western Railway Company (AWW) and to consolidate AWW into NSR following the acquisition. On March 3, 2006, the Board issued a decision granting an extension of the time for filing replies to March 16, 2006. By decision served on March 14, 2006, the Board granted Solar Sources Underground, LLP (Solar) an extension of time for filing its reply to March 22, 2006. Pursuant to these extended due dates, Indiana Southern Railroad, Inc. (ISRR),<sup>1</sup> Indianapolis Power and Light Co. (IPL), PSI Energy, Inc. (PSI) and Solar filed replies to NSR's petition.

By motion filed on March 27, 2006, NSR requests leave to amend its petition for exemption to add Norfolk Southern Corporation (NSC), NSR's parent corporation, to the petition and to file a reply on or before April 11, 2006, to the filings made by ISRR, IPL, PSI and Solar. NSR states that the petition inadvertently neglected to seek an exemption on behalf of NSC to permit it, as well as NSR, to control AWW and that granting this motion will in no way expand the issues or alter the relevant competitive and other public interest considerations presented by the exemption petition. Furthermore, NSR indicates that it could not have anticipated the replies filed by ISRR, IPL, PSI and Solar and that permitting NSR to file a reply will ensure that the Board has a complete and accurate record in this proceeding. By reply filed on April 3, 2006, ISRR opposes NSR's request to file a reply, as contrary to Board rules.

Under the circumstances, the relief requested is reasonable. Accordingly, NSR's motion to amend its petition for exemption and to file a reply on or before April 11, 2006, will be granted. The title of this proceeding is being changed to reflect the amendment. NSR is also directed to file any supplemental information regarding NSC's proposed acquisition of control by April 11, 2006.

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<sup>1</sup> On March 24, 2006, ISRR also filed a letter requesting oral argument. The Board will address this request by subsequent decision.

It is ordered:

1. NSR's motion for leave to amend its petition for exemption and to file a reply is granted.
2. NSR's reply is due on or before April 11, 2006, and any supplemental information regarding NSC's proposed acquisition of control is due by the same date.
3. This decision is effective on its date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary